

Title

Address

Signature and Date

(2) *Exception.* If the port director determines that an importation described in paragraph (d)(1) of this section forms part of a series of importations that may reasonably be considered to have been undertaken or arranged for the purpose of avoiding a Certificate of Origin requirement under §§10.224 through 10.226, the port director will notify the importer in writing that for that importation the importer must have in his possession a valid Certificate of Origin to support the claim for preferential treatment. The importer will have 30 calendar days from the date of the written notice to obtain a valid Certificate of Origin, and a failure to timely obtain the Certificate of Origin will result in denial of the claim for preferential treatment. For purposes of this paragraph, a “series of importations” means two or more entries covering articles arriving on the same day from the same exporter and consigned to the same person.

[T.D. 00-68, 65 FR 59658, Oct. 5, 2000, as amended by T.D. 03-12, 68 FR 13835, Mar. 21, 2003]

§ 10.227 Verification and justification of claim for preferential treatment.

(a) *Verification by Customs.* A claim for preferential treatment made under §10.225, including any statements or other information contained on a Certificate of Origin submitted to Customs under §10.226, will be subject to whatever verification the port director deems necessary. In the event that the port director for any reason is prevented from verifying the claim, the port director may deny the claim for preferential treatment. A verification of a claim for preferential treatment may involve, but need not be limited to, a review of:

(1) All records required to be made, kept, and made available to Customs by the importer or any other person under part 163 of this chapter;

(2) Documentation and other information regarding the country of origin of an article and its constituent materials, including, but not limited to,

production records, information relating to the place of production, the number and identification of the types of machinery used in production, and the number of workers employed in production; and

(3) Evidence to document the use of U.S. materials in the production of the article in question, such as purchase orders, invoices, bills of lading and other shipping documents, and customs import and clearance documents.

(b) *Importer requirements.* In order to make a claim for preferential treatment under §10.225, the importer:

(1) Must have records that explain how the importer came to the conclusion that the textile or apparel article qualifies for preferential treatment. Those records must include documents that support a claim that the article in question qualifies for preferential treatment because it is specifically described in one of the provisions under §10.223(a). If the importer is claiming that the article incorporates fabric or yarn that was wholly formed in the United States, the importer must have records that identify the U.S. producer of the fabric or yarn. A properly completed Certificate of Origin in the form set forth in §10.224(b) is a record that would serve these purposes;

(2) Must establish and implement internal controls which provide for the periodic review of the accuracy of the Certificates of Origin or other records referred to in paragraph (b)(1) of this section;

(3) Must have shipping papers that show how the article moved from the CBTPA beneficiary country to the United States. If the imported article was shipped through a country other than a CBTPA beneficiary country and the invoices and other documents from the CBTPA beneficiary country do not show the United States as the final destination, the importer also must have documentation that demonstrates that the conditions set forth in §10.223(d)(3)(i) through (iii) were met; and

(4) Must be prepared to explain, upon request from Customs, how the records and internal controls referred to in paragraphs (b)(1) through (b)(3) of this

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section justify the importer's claim for preferential treatment.

[T.D. 00-68, 65 FR 59658, Oct. 5, 2000, as amended by T.D. 03-12, 68 FR 13835, Mar. 21, 2003]

§ 10.228 Additional requirements for preferential treatment of brasieres.

(a) *Definitions.* When used in this section, the following terms have the meanings indicated:

(1) *Producer.* "Producer" means an individual, corporation, partnership, association, or other entity or group that exercises direct, daily operational control over the production process in a CBTPA beneficiary country.

(2) *Entity controlling production.* "Entity controlling production" means an individual, corporation, partnership, association, or other entity or group that is not a producer and that controls the production process in a CBTPA beneficiary country through a contractual relationship or other indirect means.

(3) *Fabric components formed in the United States.* "Fabric components formed in the United States" means components that were knit to shape from yarns in the United States and components that were cut or otherwise produced in the United States from fabric that was formed in the United States by a weaving, knitting, needling, tufting, felting, entangling or other process, whether or not the components incorporate non-textile materials.

(4) *Cost.* "Cost" when used with reference to fabric components formed in the United States means:

(i) The price of the fabric components when last purchased, f.o.b. United States port of exportation, as set out in the invoice or other commercial documents, or, if the price is other than f.o.b. United States port of exportation, the price as set out in the invoice or other commercial documents adjusted to arrive at an f.o.b. United States port of exportation price; or

(ii) If the price cannot be determined under paragraph (a)(4)(i) of this section or if that price is unreasonable, all reasonable expenses incurred in the growth, production, manufacture or other processing of the fabric compo-

nents, including the cost or value of materials and general expenses, plus a reasonable amount for profit, and the freight, insurance, packing, and other costs incurred in transporting the components to the United States port of exportation.

(5) *Declared customs value.* "Declared customs value" when used with reference to fabric contained in an article means the sum of:

(i) The cost of fabric components formed in the United States less the cost or value of any non-textile materials, and less the U.S. producer's expenses for cutting or other processing to create the components other than knitting to shape, that the producer or entity controlling production can verify; and

(ii) The cost of all other fabric contained in the article, that is, fabric not incorporated in a fabric component formed in the United States, determined as follows:

(A) In the case of fabric purchased by the producer or entity controlling production, the f.o.b. port of exportation price of the fabric as set out in the invoice or other commercial documents or, if the price is other than f.o.b. port of exportation, the price as set out in the invoice or other commercial documents adjusted to arrive at an f.o.b. port of exportation price, plus expenses for embroidering and dyeing, printing and other finishing operations applied to the fabric if not included in that price;

(B) In the case of fabric for which the cost cannot be determined under paragraph (a)(5)(ii)(A) of this section or if that cost is unreasonable, all reasonable expenses incurred in the growth, production or manufacture of the fabric, including the cost or value of materials, general expenses and embroidering and dyeing, printing, and other finishing expenses, plus a reasonable amount for profit, and the freight, insurance, packing and other costs incurred in transporting the fabric to the port of exportation;

(C) In the case of fabric components that were purchased by the producer or entity controlling production, either the f.o.b. port of exportation price of those fabric components as set out in